IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

MONDAY, THE 15TH OCTOBER 2007 / 23RD ASWINA 1929

WP(C).No. 17778 of 2007(N)

PETITIONER:

G.ABRAHAM, AGED 86,
S/O. LATE GEEVARGHESE, KUNNEL VEEDU,
ANARI, CHERUTHANA P.O.

BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL

RESPONDENTS:

1. THE PRINCIPAL SECRETARY,
DEPARTMENT OF LOCAL SELF GOVERNMENT,
SECRETARIAT, THIRUVANANTHAPURAM.

2. THE SECRETARY,
HARIPAD GRAMA PANCHAYATH, HARIPAD.

3. THE SUB INSPECTOR OF POLICE,
HARIPAD POLICE STATION, HARIPAD.

4. GEE VARGHESE,
GRACE COTTAGE, NANGIARKULANGARA,
HARIPAD.

BY ADV. SRI.SAJITH KUMAR V.
SRI.HAREESH.M
R4 BY ADV. SRI.S.SHANAVAS KHAN
R1 BY ADV. SRI.K.J.MOHAMMED ANZAR, SR. GOVT. PLEADER.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC : 17778 OF 2007

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 : TRUE COPY OF REPRESENTATION DATED 2.3.07 FILED BY PETITIONER TO THE 2ND RESPONDENT.

EXT.P2 : TRUE COPY OF JUDGMENT IN WP(C) NO.7676 OF 2007 DATED 13.3.07, HIGH COURT OF KERALA.

EXT.P3 : TRUE COPY OF ORDER OF 2ND RESPONDENT DATED 26.5.07.

/TRUE COPY/

PA TO JUDGE.

PIUS C. KURIAKOSE, J.

W.P.(C) No. 17778 OF 2007

Dated this the 15th day of October, 2007

JUDGMENT

Heard Sri.R.T.Pradeep, counsel for the petitioner, Sri.Shanavas Khan, counsel for the 4th respondent and also the learned Government Pleader in extenso. Even though Mr.Pradeep asserted that Ext.P3 is not appealable, I am of the view that the petitioner can appeal to the Council of the Panchayat against Ext.P3.

2. Mr.Pradeep submitted that since 4th respondent's constructions had only reached the basement stage at the time when the KMBR was extended to the Panchayat, those rule will apply. It is open to the petitioner to urge this as a ground in the appeal which he may prefer against Ext.P3. Petitioner seems to be more aggrieved about the 4th respondent's action of not leaving any side set back on the boundary which he shares with the petitioner. It is open to the petitioner to seek redressal of genuine grievance, if any, regarding this from a competent Civil Court also.

The Writ Petition is disposed of accordingly. Considering the permission granted to go in for statutory appeal or to move the Civil Court, there will be an observation that the constructions which are

being made by the 4th respondent will be at his risk and subject to the decision to be taken in the appeal and to the orders to be passed by the Civil Court, if the petitioner moves the Civil Court within a period of three weeks of his receiving copy of this judgment.

PIUS C. KURIAKOSE, JUDGE

btt